

21 C.J.S. Courts § 310

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Courts

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IX. Court Commissioners

A. Nature of Office, Appointment, Qualification, and Tenure

§ 310. Nature of office of court commissioner

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West's Key Number Digest

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A court commissioner is a subordinate judicial or quasi-judicial officer who generally acts as an instrumentality to inform and assist the court.

A court commissioner is a subordinate¹ judicial² or quasi-judicial³ officer of a court of record⁴ who generally acts as an instrumentality to inform and assist the court.⁵ Court commissioners perform many important functions in assistance to courts, such as conducting fact-finding hearings, holding pretrial conferences, and making recommendations to judges.⁶

Court commissioners are obligated to conduct themselves as judicial⁷ or quasi-judicial⁸ officers and to follow established procedural and substantive law.⁹ Standards of judicial conduct and canons of ethics are as applicable to court commissioners as they are to any other judicial officer.¹⁰

A court commissioner is not a qualified judge de facto or de jure.¹¹ A court commissioner is not a court¹² but is an adjunct and officer of the court.¹³

A court commissioner, as such, is not a court referee.¹⁴ By contrast, where the legislature has specifically granted to court commissioners powers and duties consonant with those of a magistrate, the concepts of magistrates and commissioners are virtually synonymous in practicality, especially with respect to parties in a judicial proceeding.¹⁵

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Footnotes

- 1 Wyo.—BAC v. BLM, 2001 WY 83, 30 P.3d 573 (Wyo. 2001).
 - 2 U.S.—Franceschi v. Schwartz, 57 F.3d 828 (9th Cir. 1995).
 - 3 Utah—Liska v. Liska, 902 P.2d 644 (Utah Ct. App. 1995).
 - 4 Utah—Liska v. Liska, 902 P.2d 644 (Utah Ct. App. 1995).
 - 5 Ind.—Rivera v. State, 601 N.E.2d 445 (Ind. Ct. App. 1992).
 - 6 Utah—State v. Thomas, 961 P.2d 299 (Utah 1998).
 - 7 Mo.—In re K.L.W., 131 S.W.3d 400 (Mo. Ct. App. W.D. 2004).
 - 8 Utah—Liska v. Liska, 902 P.2d 644 (Utah Ct. App. 1995).
 - 9 Mo.—In re K.L.W., 131 S.W.3d 400 (Mo. Ct. App. W.D. 2004).
 - 10 Mo.—In re K.L.W., 131 S.W.3d 400 (Mo. Ct. App. W.D. 2004).
 - 11 Wyo.—BAC v. BLM, 2001 WY 83, 30 P.3d 573 (Wyo. 2001).
 - 12 Ind.—Rivera v. State, 601 N.E.2d 445 (Ind. Ct. App. 1992).
 - 13 Wyo.—Weber v. Johnston Fuel Liners, Inc., 519 P.2d 972 (Wyo. 1974).
 - 14 Cal.—In re Ian J., 22 Cal. App. 4th 833, 27 Cal. Rptr. 2d 728 (5th Dist. 1994), as modified, (Mar. 15, 1994).
 - 15 Ind.—Capehart v. Capehart, 771 N.E.2d 657 (Ind. Ct. App. 2002).
- As to powers of court commissioners, generally, see § 315.